

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

EARL MAYFIELD,

Plaintiff,

v.

CIV 08-0413 RB/KBM

SGT. MORA, OFFICER J.R. REIDELL,
and TREAVOR L. LAWSON,

Defendants.

ORDER ON PENDING MATTERS

In one of my last orders on pending motions, I advised Plaintiff as follows:

Plaintiff is hereby notified, however, that the Court WILL NOT consider any other motions of this sort prior to issuing my proposed findings. Plaintiff will have a chance to respond to the *Martinez* Report and motion for summary judgment, and he should put everything he wants to say in that response. I will give him ample time to do so. It IS NOT necessary for him to cite law in his response, so any lack of access to a law library is no excuse for not complying with the Court's deadline or filing something other than the response. Once the response and reply are submitted, this matter will be taken under advisement and decided. Because of the Court's docket and the number of matters Plaintiff has raised, I may not be able to issue proposed findings right away. I expect Plaintiff to be patient and not file motions or other pleadings asking when the matter will be decided.

Doc. 49 (entered May 5, 2009).¹ Plaintiff did not comply with these directions and presently pending are the three motions he filed on May 26, May 29 and June 11, 2009. *See Docs. 54, 55, 57.* I will address the motions. Hereinafter, any filing by Plaintiff will be stricken unless the Court specifically requests a filing by him.

One of the motions asks that I order Defendants to supplement their *Martinez* Report with the documents that pertain to Plaintiff's placement in administrative segregation from June 6, 2007 to September 1, 2007. He claims that these document the "pattern of harassment and retaliation related to" another action he filed with this Court – "CV-07-149 JH/LFG." *Doc. 55* at 1. In that action, Mayfield is represented by counsel and challenges the events that led to his incarceration, including a claim that the officers used excessive force is tasing him. The suit has not yet concluded – the trial was vacated and is set for a status conference as the end of June 2009. Mayfield asserts that the filing of that action triggered a series of retaliatory acts by the Defendants in this case. *Id.* at 2 ("Plaintiff state that he was told by MDC staff . . . that his situation and problem here at MDC go back to Plaintiff filing his lawsuit against APD in CV-07-149 JH/LFG In Feb. 2007, and cont[inues] to this day.").

¹ I subsequently denied other motions by Plaintiff that appeared to have been sent before he received the above order. *See Docs. 52, 53* (text-only entries).

Specifically, Mayfield contends that he challenged his placement in segregation by habeas proceedings in the state criminal actions, and the state Judge granted relief in his favor. Counsel for Defendants asserts that Plaintiff refers to the three grievances he has been unable to locate. *See Doc. 58* at 2 n.1. Actually, Plaintiff refers to four – numbers 005437, 005570, 005434, and 005202. *See Doc. 55* at 2, 3, 11. Those grievances are not part of the Court’s record in the other civil action, but they may be part of the discovery that has taken place in that case. It would seem a worthwhile avenue to follow-up with defense counsel in that action.

I have already given Defendants permission to respond to Plaintiff’s principal allegation in their reply – that is, a continuing pattern of retaliation in a variety of forms. *See Doc. 32* at 1-2, *Doc. 39*, *Doc. 49* at 1-2. Defendants may respond to these allegations as well, if they wish. I will not order them to do so. I therefore deny this motion.

In Plaintiff’s other two motions, he asserts that a Sergeant Larry Grant and a Sergeant Jason Ellis authorized the “confiscation” of all of Plaintiff’s legal materials, including the *Martinez* Report filed in this action. *See Docs. 54, 57*. Mayfield contends that they told him that his attorney, presumably the attorney appointed to represent him in CIV 07-149 JH/LFG, was the one who authorized their actions.

See *Doc. 57* at 3. Plaintiff's response to the *Martinez* Report is due in a few days – June 19, 2009. The time for counsel to respond has not passed. I will allow Plaintiff to file a reply to the “confiscation” response. Therefore, I will vacate the briefing deadlines for the *Martinez* Report.

Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Plaintiff's motion to “amend” (*Doc. 55*) is DENIED;
2. Plaintiff's motions regarding “confiscation” (*Docs. 54, 57*) are TAKEN UNDER ADVISEMENT pending further briefing;
3. Plaintiff may file a reply to Defendants response to the “confiscation” motions;
4. The remaining briefing schedules for the *Martinez* Report are VACATED pending further order; and
5. Any unauthorized filings by Plaintiff will be STRICKEN.


UNITED STATES MAGISTRATE JUDGE